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September 25, 2014

Delivered by RESS, Email and Courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
26th Floor, Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2014-0002
Horizon Utilities Corporation – Five Year Custom Distribution Rate
Application**

Further to my September 23, 2014 email to you and the parties, we attach an update to Horizon Utilities Corporation's ("Horizon Utilities") Cost Allocation and Rate Design evidence as a result of the very recent notice received from US Steel Canada Inc. ("USSC") advising that it has obtained a Court Order for protection under the Companies' Creditors Arrangement Act ("CCAA"). On the morning of September 17, 2014, Horizon Utilities learned through a news report that US Steel Canada Inc. had obtained a Court Order for protection under CCAA. Horizon had no advance notice whatsoever concerning this announcement. Later on September 17th Horizon Utilities received a letter from US Steel Canada that was sent to various suppliers. A copy of this letter is attached to the updated evidence.

Ernst and Young, the appointed Monitor in the CCAA proceeding, has established a website for publicly available documents pertaining to this matter. Further information and documents can be obtained at the following website hosted by Ernst & Young:

<http://documentcentre.eycan.com/Pages/Overview.aspx?SID=314>

To summarize the main feature of the evidence update, Horizon Utilities now seeks, as additional alternative relief, the establishment of a new symmetrical Large Use customer variance account in the event the Board does not approve the creation of the LU (2) class. If the LU (2) class is approved as requested then no alternative relief is required.

The rationale behind the establishment of a new Large User variance account (in the event the LU (2) class is not approved) is to track any variances between forecast versus actual demand within the Large User customer class in the event that USSC reduces or ceases to continue operations in Hamilton during Horizon Utilities' 5 year Custom IR term. Since Horizon Utilities is proposing that any such adjustments be contained within the Large User customer class only, no other rate class would be affected by the alternative relief that Horizon Utilities now seeks.

Horizon Utilities' update does not alter or amend in any way the Settlement Proposal filed with the Board on September 22, 2014.

We attach to this letter the following documents:

- Revised Exhibit 1, Tab 7, Schedule 6 to the Application, which indicates the new alternative relief sought;
- A new Exhibit 10, consisting of Horizon Utilities' updated evidence with respect to this matter, which provides a description of the changes summarized above in greater detail; and
- Three Appendices to Exhibit 10, including a Report from Elenchus Research Associates Inc. ("Elenchus") entitled "Cost Allocation Addendum: Variance Account Creation and Disposition" dated September 25, 2014.

Certain confidential customer specific and commercially sensitive information relating to potential impacts of a closure of the USSC Hamilton operations on Horizon Utilities, including information related to forecasted USSC load and potential lost distribution revenue, has been redacted from the public version of Exhibit 10. Public disclosure of this information could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of USSC as it would enable competitors to ascertain its current and potential electricity consumption in the coming years. The Board's Practice Direction recognizes that these are among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), and the Board itself places an extremely high priority on the protection of customer demand, consumption and billing information. This is among the types of information previously considered confidential by the Board.

Horizon Utilities is prepared to provide copies of the unredacted version of the Exhibit to parties' counsel and experts or consultants provided that they have executed the Board's form of Declaration and Undertaking with respect to confidentiality and that they comply with the *Practice Direction on Confidential Filings* (the "Practice Direction"), subject to Horizon Utilities' right to object to the Board's acceptance of a Declaration and Undertaking from any person. In keeping with the requirements of the Practice Direction, Horizon Utilities is filing confidential versions of the updated evidence. This material has been placed in a sealed envelope marked "Confidential".

Horizon Utilities proposes that this confidential information be dealt with at the hearing of the Cost Allocation and Rate Design issue (Issue 4.0 of the Issues List) *in camera*.

Horizon Utilities and Elenchus witnesses appearing at the hearing next week on the unresolved Cost Allocation and Rate Design issues will be prepared to answer questions the Board and parties may have concerning this update.

Horizon Utilities appreciates the consideration of the Board and parties with respect to this important new development.

**Yours very truly,
BORDEN LADNER GERVAIS LLP**

A handwritten signature in black ink, appearing to read 'J. Mark Rodger', with a long horizontal flourish extending to the left.

J. Mark Rodger
Incorporated Partner*

*Mark Rodger Professional Corporation

copy to: John G. Basilio, Horizon Utilities Corporation
 Indy J. Butany-DeSouza, Horizon Utilities Corporation
 Intervenors
 Maureen Helt, OEB
 Christie Clark, OEB